

Applicants: Kenneth W. Whitley  
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Filing Date: December 19, 2003  
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**REMARKS**

Reconsideration of the application is respectfully requested.

Claims 1-9 are in the application. Through this amendment, claim 1 has been amended, and new claim 9 has been added.

In the Official Action, the Examiner rejected claims 1, 2, 3 and 7 under 35 U.S.C. §102(b) as being allegedly anticipated by Parker (U.S. Patent No. 3,946,903) or Stracey (U.S. Patent No. 3,155,281) or Norwood (U.S. Patent No. 5,209,372).

Parker is directed to a collapsible, spirally fluted container. As clearly shown in Figs. 2 and 3, the base 2 of the container is formed with a smaller diameter than the side wall of the container. The Parker container is intended for dispensing food and other flowable materials. (See, col. 1, ll. 25-28; col. 4, ll. 32-37). There is absolutely no disclosure or suggestion in Parker of using the container as a roller bottle for cell growth culturing.

Amended claim 1 is directed to a "roller bottle for cell growth culturing" which includes a bottom wall and a side wall with "said bottom wall being formed unitarily with, and generally having the same diameter as, said side wall". The claimed invention is usable as a roller bottle and includes a stable base that also provides a portion of the side resting surface for the roller

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bottle for rolling action during cell growth culturing. As indicated above, the Parker container has a base which is smaller than the side wall. Parker has no concern with providing a stable side resting surface for rolling action of the container. It is respectfully submitted that claim 1, along with dependent claims 2, 3 and 7, are patentable over Parker.

Stracey is directed to a container which is a dispenser for various flowable products, such as "powders, pastes, sticks or liquids, including cosmetics, toothpaste, tooth powder, talcum powder, shaving sticks, capsules and pills and the like." (Col. 1., ll. 11-14). The container includes a base 10 which is separately formed from a main chamber 11. To advance material into smaller chamber 12 for dispensing, the base 10 is rotated about the bellows of the chamber 11. (Col. 3, ll. 8-21). As a result, the walls of the chamber 11 collapse and collect within the base 10. It is clear from Stracey that the base 10 must be rotatable relative to the chamber 11 for operation.

As stated above, claim 1 has been amended to indicate that "said bottom wall being formed unitarily with, and generally having the same diameter as, said side wall". In contrast, the base 10 of Stracey is not unitarily formed with the side wall. There is no disclosure or suggestion in Stracey to have such unitary construction. Moreover, such unitary construction would improperly modify the operation of the Stracey device. It is respectfully submitted that claim 1, along with dependent claims 2, 3 and 7, are patentable over Stracey.

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Norwood is directed to a collapsible spiral container which includes a sidewall 24. The spiral of the sidewall is defined by upper sides 38 and bottom sides 40. As stated at col. 2, ll. 55-63, the upper sides 38 have longer length than the bottom sides 40. With this arrangement, as indicated at col. 2, ll. 64-67, the bottom sides 40 buckle and fold when the bottle is compressed. As shown in Fig. 4, the upper sides 38 maintain their shape in a compressed state.

Amended claim 1 indicates that the roller bottle includes "at least one helical pleat", wherein "said helical pleat includes at least one outer apex located between first and second inner apices, said first and second inner apices being located generally equally from said outer apex." Norwood does not provide such an arrangement. Rather than having a pleat with walls of equal length, Norwood provides pleats with walls of two different lengths to permit a specific form of collapsing. With the arrangement of claim 1, equal wall lengths on the helical pleat provide equal rigidity in up and down vertical directions about the pleat and an even shaped channel for cell growth culturing and transmission for liquids therethrough. It is respectfully submitted that claim 1, along with dependent claims 2, 3, and 7, are patentable over Norwood.

The Examiner rejected claims 4, 6, and 8 under 35 U.S.C. §103(a) as being allegedly unpatentable over any one of Parker, Stracey, or Norwood.

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As set forth at MPEP §2141.01(a), a reference must be analogous art to be useable under 35 U.S.C. §103(a). To be analogous art, only references that relate to the field of an inventor's endeavor or that are reasonably pertinent to the particular problem to which an inventor is concerned which may be relied upon in formulating a rejection. Parker and Stracey are collapsible dispensers for food and other flowable products, as set forth above. Norwood discloses use with beverages. (See, e.g., col. 1, ll. 18-22). These applications are clearly far afield from the roller bottle art. In addition, the inventor herein was concerned with efficient flow of fluid along the interior of a roller bottle (see, e.g., para. [0014] of Applicant's specification) and increasing surface area for cell growth (see, e.g., para. [0024] of Applicant's specification). Neither Parker, Stracey nor Norwood is concerned with these issues. It is respectfully submitted that Parker, Stracey and Norwood are non-analogous art to the subject invention and not useable in a rejection under 35 U.S.C., §103(a) herein.

In addition, claims 4, 6, and 8 all depend from claim 1. As indicated above, it is respectfully submitted that claim 1 is patentable over Parker, Stracey and Norwood. As depending from an allowable claim, it is respectfully submitted that claims 4, 6 and 8 are also patentable over Parker, Stracey, and Norwood.

Claims 1, 2, 3 and 5 were rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Bueno (U.S. Patent No. 5,704,504).

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Bueno is directed to a plastic bottle for hot filling which includes a lateral wall 10 having a plurality of grooves 20 formed therein separated by panels 11. (Col. 4, ll. 47-52). The grooves 20 are separately formed and spaced apart about the lateral wall 10. The grooves 20 are provided to counteract cooling effects, and vacuum formation, after hot filling. (See, e.g., col. 4, l. 53 - col. 5, l. 3).

Amended claim 1 has been amended to state that "adjacent portions of said helical pleat being in abutting contact". Bueno does not disclose any pleats, but rather grooves. In addition, the grooves 20 of Bueno are clearly spaced apart and not in abutting contact. (See, e.g., col. 4, ll. 48-49 of Bueno). There is no disclosure or suggestion to form the grooves 20 otherwise. It is respectfully submitted that claim 1, along with dependent claims 2, 3 and 5, are patentable over Bueno.

The Examiner rejected claims 1-8 under 35 U.S.C. §103(a) as being allegedly unpatentable over Serkes et al. (U.S. Patent No. 5,010,013) in view of Bueno. The Examiner asserted that it would have been "obvious to one of ordinary skill in the art to provide the ribs in Serkes extending diagonally to provide an alternative ribs for added reinforcement."

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It is initially noted that Bueno is non-analogous art. As set forth at MPEP §2141.01(a), only references that relate to the field of an inventor's endeavor or that are reasonably pertinent to the particular problem to which an inventor is concerned which may be relied upon in formulating a rejection. Bueno is outside the inventor's field of endeavor and is not at all concerned with the particular problem with which the inventor was concerned. Admittedly, Serkes et al. discloses a roller bottle, similar to that which is claimed, and, thus, is analogous art to the subject invention.

Bueno, however, is directed to a plastic bottle for hot filling with no indication of its use for cell growth culturing. It is clear that Bueno is outside of the inventor's field of endeavor. Moreover, the inventor was concerned with efficient flow of fluid along the interior of a roller bottle (see, e.g., para. [0014] of Applicant's specification) and increasing surface area for cell growth (see, e.g., para. [0024] of Applicant's specification). Bueno is clearly not concerned with either. Bueno is concerned with counteracting cooling effects after hot filling. Clearly, one skilled in the roller bottle art seeking to better fluid distribution and cell yield would not look to Bueno for a solution. It is respectfully submitted that Bueno is non-analogous art and not useable in a rejection under 35 U.S.C. §103 in this case.

Assuming *arguendo* that Bueno is analogous art, any hypothetical combination of Serkes et al. and Bueno would result in the Serkes et al. roller bottle being modified to include a

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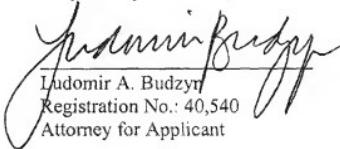
plurality of spaced apart grooves formed for reinforcement after hot filling. No pleats are disclosed in Bueno and, thus, there is no motivation or suggestion to alter the pleats in Serkes et al. It is respectfully submitted that claims 1-8 are patentable over Serkes et al. and Bueno, each taken alone or in combination.

As indicated above, neither Parker, Stracey, Norwood nor Bueno are directed to a structure for cell growth culturing. In addition, none of these references are analogous art to the claimed roller bottle. New claim 9 has been added which states that "internal surfaces of said top wall, said side wall, and said bottom wall are compatible with cell growth culturing". There is no disclosure or suggestion in any of the noted references to obtain such. As for Serkes et al., no helical pleat is provided as admitted by the Examiner. It is respectfully submitted that claim 9 is patentable over the prior art of record.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,

  
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